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In re Application of
ROMASCHIN et al
Application No.: 10/614,678
Filing Date: July 7, 2003
Attorney Docket No.: 1148-1-002 CIPF

: **OFFICE OF PETITIONS**
:
: **DECISION ON PETITION**
: **UNDER 37 CFR 1.55**
:

This is a decision on the petition under 37 CFR 1.55(c), filed November 2, 2006, for acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for benefit of the filing date of foreign Application No. CA 2,097,952, filed June 8, 1993.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
- (2) the surcharge as set forth in 37 CFR 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional.)

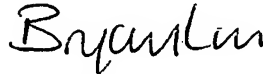
In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled “Renewed Petition under 37 CFR 1.55(c).”

With regard to item (3) above, the petition states that "the entire delay between the date the priority claim was due under (a)(1) and the date claim was filed (first on July 7, 2004 in an Amendment and Response and second on this date) was unintentional." This statement is interpreted as a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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